



November 30, 1999

Ms. Linda Cloud  
Executive Director  
Texas Lottery Commission  
P.O. Box 16630  
Austin, Texas 78761-6630

OR99-3418

Dear Ms. Cloud:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130305.

The Texas Lottery Commission (the "commission") received a request for information regarding the most recent "Instant Tickets" contract. Specifically, the request is for "copies of all vendor minority participation reports and/or general minority participation information for Scientific Games International and Pollard Banknote." While you raise no arguments for withholding the requested information on behalf of the commission, you advise that the requested information involves the privacy or property interests of Scientific Games International (SGI). In accordance with section 552.305 of the Government Code, you have notified SGI of the request.<sup>1</sup> SGI has responded, claiming that a portion of the requested information is excepted under section 552.110 of the Government Code.<sup>2</sup> We have reviewed SGI's argument and reviewed the submitted information.<sup>3</sup>

Section 552.110(b) excepts from required public disclosure "[c]ommercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was

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<sup>1</sup>You make no mention of having notified Pollard Banknote of the request. We note that section 552.305 required you to make a good faith effort to notify Pollard Banknote.

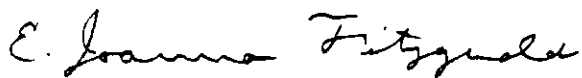
<sup>2</sup>Initially, SGI claimed that the requested documents that were submitted to this office as Exhibits C through E were all excepted from required public disclosure under sections 552.101 and 552.110 of the Government Code. However by letter dated November 4, 1999, SGI, though its attorney, now concedes that Exhibits C and D contain public information, and that only Exhibit E should be withheld under section 552.110.

<sup>3</sup>The information at issue consists of data regarding subcontractor-contractor work in relation to the Instant Tickets contract.

obtained.” The governmental body, or interested third party, raising section 552.110 must provide a specific factual or evidentiary showing, not conclusory or generalized allegations, that substantial competitive injury would likely result from disclosure. Gov’t Code §552.110(b); *see also National Parks & Conservation Ass’n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974). SGI contends that the information concerning internal labor and overhead costs submitted as Exhibit E “would be extremely valuable to SGI’s competitors in assessing and estimating SGI’s cost, and thus profits, on the Texas Lottery Commission award.” Consequently, SGI “would be put at a competitive disadvantage in future bids in Texas and other states . . . .” We believe that to the extent that the documents at issue reveal the amounts that SGI has paid to subcontractors, the documents reveal sensitive commercial information which, if released, would cause substantial harm to SGI. However, Exhibit E contains additional information that by itself does not appear to reveal SGI’s costs relating to subcontractors. We find that SGI has failed to show how the release of this additional information would cause substantial competitive harm. Accordingly, the commission must withhold the information that we have marked in Exhibit E. The rest of the requested information must be released to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



E. Joanna Fitzgerald  
Assistant Attorney General  
Open Records Division

EJF/nc

Ref: ID# 13030

Encl. Marked documents

cc: Mr. Rolando Pablos  
Oberthur Gaming Technology  
999 Westover Hills Boulevard  
San Antonio, Texas 78251-4199  
(w/o enclosures)